

# ALERT

8 SEPTEMBER 2015

## Are you meeting your minimum pay obligations to your employees?

National convenience store chain 7-Eleven has been in the news recently as a result of serious allegations that many of its franchisees are significantly underpaying their staff and not keeping accurate employment records. If these claims are substantiated, 7-Eleven could be liable for significant financial penalties (potentially in the order of hundreds of thousands of dollars) as well as orders for compensation for any loss and damage suffered by the relevant employees. This case serves as a timely reminder for employers of the need to ensure that they are meeting their minimum pay obligations to their employees.

### What should you be paying your employees?

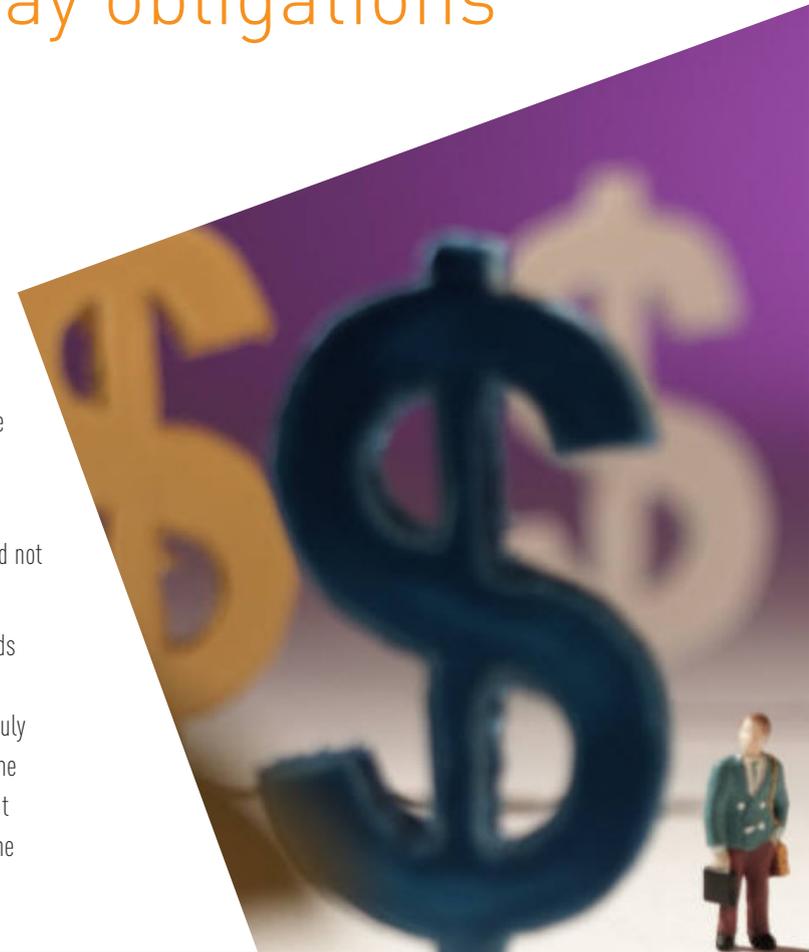
There are currently approximately 120 modern awards in existence which specify the minimum terms and conditions of employment that must be provided to employees who fall within their classification provisions, including wages, overtime, penalty rates, loading and allowances. For example, there is a good chance that any business that employs a receptionist, secretary or junior level payroll clerk is

subject to the *Clerks – Private Sector Award 2010*.

The amount of the minimum wage payable under the applicable award will vary depending on the classification level which applies to particular employees under the award. It is worth noting that many awards require employers to notify their employees in writing of their classification level under the award and any change to that classification.

If an employee is not subject to a modern award or enterprise agreement, the employer must ensure that the employee is paid not less than the National Minimum Wage.

The amount of the minimum wages prescribed by modern awards and the National Minimum Wage is reviewed each year. With effect from the first full pay period commencing on or after 1 July 2015, the minimum wage rates set out in modern awards and the National Minimum Wage increased by 2.5%. The current amount of the National Minimum Wage is \$656.90 per week for full-time employees.



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## What happens if you get it wrong?

There are significant sanctions available against employers that do not comply with their minimum wage requirements, including civil penalties of up to \$54,000 per breach as well as orders for compensation for any damage suffered as a result of the breach. It is important to be aware that any individuals involved in the contravention may also be held personally liable for the breach, including directors and HR professionals. The maximum civil penalty available against an individual is currently \$10,800 per breach.

## What should you do?

Employers should carefully audit their existing pay arrangements to ensure they are satisfying their minimum pay obligations. This should be done bearing in mind the increase to minimum wage rates introduced earlier this year as outlined above, as well as the particular hours worked by employees to ensure that the employer is meeting its minimum obligations with respect to such matters as overtime, penalty rates, allowances and loadings. It is also important that employers ensure they have correctly classified their employees in accordance with any applicable award or agreement as this will determine the relevant minimum pay rate.

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